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UNITED STATES OF AMERICA, No CR 04-0189 VRW Plaintiff, ORDER

REY MARTINEZ,

Defendant.

Defendant Rey Martinez's motion to suppress evidence is noticed for hearing on March 21, 2006. The court invites the parties to submit supplemental briefs addressing the following questions:

(1) Was it proper for the officers to open the four white envelopes absent specific authorization in the search warrant under California v Acevedo, 500 US 565 (1991)? See id at 573-74 (suggesting that the holding in Acevedo would have produced a different outcome in Arkansas v Sanders, 442 US 753 (1979), a case factually similar to

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the case at bar); see also Wyoming v Houghton, 526 US 295
(1999); <u>United States v Ross</u> , 456 US 798 (1982);
For purposes of question 1:

- (a) Were the envelopes on Martinez's person at the time they were seized by law enforcement?;
- (b) Were the envelopes in the vehicle at the time they were seized by law enforcement?;
- (3) At the time Martinez was arrested, did the San Francisco Police Department have a policy of opening sealed mail envelopes as part of its inventory procedures? See, e g, Illinois v Lafayette, 462 US 640 (1983);
- Is there any evidence in addition to the exhibit attached (4)to the Fazio declaration, Doc #58, to substantiate Martinez's assertion that the warrant was initially executed at the San Francisco International Airport?

Briefing shall not exceed twelve pages and shall be submitted on or before March 17, 2006, at 5:00 pm.

SO ORDERED.

VAUGHN R WALKER

Much

United States District Chief Judge